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| APPLICATION NO.                                                                                                    | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.               | CONFIRMATION NO.       |
|--------------------------------------------------------------------------------------------------------------------|-------------|-----------------------|-----------------------------------|------------------------|
| 10/566,397                                                                                                         | 04/11/2006  | Jean-Philippe Fraysse | Q92824                            | 3603                   |
| 23373 7590 02/26/2008<br>SUGHRUE MION, PLLC<br>2100 PENNSYLVANIA AVENUE, N.W.<br>SUITE 800<br>WASHINGTON, DC 20037 |             |                       | EXAMINER<br>SHINGLETON, MICHAEL B |                        |
|                                                                                                                    |             |                       | ART UNIT<br>2815                  | PAPER NUMBER           |
|                                                                                                                    |             |                       | MAIL DATE<br>02/26/2008           | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/566,397

**Applicant(s)**

FRAYSSE, JEAN-PHILIPPE

**Examiner**

Michael B. Shingleton

**Art Unit**

2815

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7 and 12 is/are rejected.
- 7) ☒ Claim(s) 4-6, 8-11, 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Petz US2002/097087 (Petz).

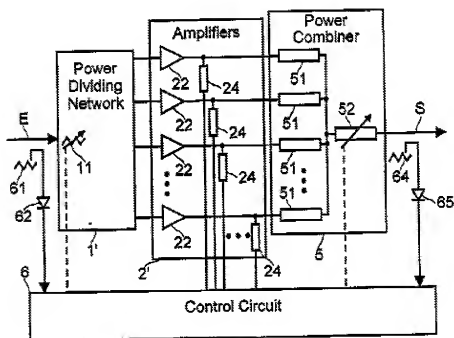
**FIG. 2**

Figure 2 of Petz

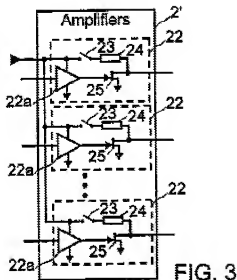


Figure 3 of Petz.

Figures 2 and 3 and the relevant text of Petz disclose an RF amplifier having the number  $N$  susceptance compensators 24 and a circuit for combining 5. Within the circuit for combining there are line sections. The claims recite that there are  $M$  levels, however, the claims do not set forth exactly what numbers compose the term  $M$ . Thus reading the claims with the broadest reasonable interpretation the number  $M$  could be one. Thus when the  $M$  is "1" note that the quarter wave line segments make up the line segments for the number one level. The  $M + 1$  level is made up of the quarter wave line 52. Also note that as the level number increases in Petz that the number of lines in that level decreases. Note that when one reads the  $M$  value to be 1 then there are no half-wave length sections and thus the prior art is seen as reading on claims like claim 3. Also since there is no specific definition for "spatial power combination technique" in the specification and thus since the wave line segments are spaced apart inherently the power combination is seen as a spatial power combination technique.

Claims 4-6, 8-11, 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 10-11-2007 have been fully considered but they are not persuasive. Applicant argues that Applicant states that "there is no evidence in Petz that the impedances are used to compensate susceptances", however, applicant does not provide any evidence that the prior art cannot

Art Unit: 2815

"compensate susceptances". Also to "compensate susceptances" is also a very broad term, applicant argues that Figure 2 described in the paragraph bridging pages 4 and 5 of the instant specification shows one example of a susceptance compensator which happens to include a capacitor. There is no capacitor element claimed in at least the independent claims and in any case this is merely one example. Also there is no specific limiting definition for the term to "compensate susceptances" given my applicant and there is no showing that elements 24 of Petz cannot have any effect on the susceptances. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Sometimes the examiner will have a pretty good guess as to what an applicant may have wanted to actually claim, but the examiner just cannot read limitations into the claim that are just not there. In the instant case, the example cannot read into the claims specific structure of applicant's Figure 2 into the claims when the claims just do not recite that specific structure. The examiner must also give the broadest reasonable interpretation to the claims MPEP 2111 and structures 24 of the Petz must have some effect on the susceptance and thus are susceptance compensators especially given the lack of a specific limiting definition by applicant of this term that would exclude such a reading.

Applicant also talks about the half-wave length lines for M levels other than level "1". The examiner addressed this concern in the previous office action. There is no limitation that requires "M" to be greater than "1" in the original claims and applicant has not amended the independent claims to include that M is an integer greater than one. Again the example must give the broadest reasonable interpretation to the claims and when M equal "1" then there are no half-wave length sections and thus the prior art is seen as reading on the original claims. When M is "equal to 1" there are no other "M-levels" where the equal length of line is an integer multiple of a half wave length. If M is greater than one then there would be "M-levels" that would include half-wave length line sections. This is similar to an alternative limitations like the word "or". For example, say a claim recited "gas or liquid". Prior art that disclosed the gas "embodiment" would reject such a claim. Also note that should applicant narrow the claim by amendment to just the liquid embodiment then if the examiner finds prior art to the liquid embodiment then such a rejection of this amended claim would be necessitated by the amendment. Note that in applicant's invention that the M+1 level is not part of the "M-levels", and this M+1 level has a quarter wave length as shown in Figure 3 of the instant application. The examiner has pointed out that the quarter wave length line of the M+1 level is met by the quarter wave length line 52 of the prior art. This is a reasonable interpretation for reading that the M+1 level must be both only a half wave length ("each level other than level 1 includes a particular number of line sections of equal electrical length that is an

Art Unit: 2815

integer multiple of" half wave length) and only a quarter wave length is just an impossibility. It was absolutely clear what applicant was claiming and thus the examiner viewed that no 35 USC 112 second paragraph problems existed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Shingleton whose telephone number is (571) 272-1770.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Parker, can be reached on (571) 272-2298. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MBS  
March 31, 2007  
February 14, 2008

/Michael B. Shingleton/  
Michael B Shingleton  
Primary Examiner  
Group Art Unit 2815